

William C. Rooklidge (SBN 134483)
 Martha K. Gooding (SBN 101638)
 Gregory S. Cordrey (SBN 190144)
 HOWREY LLP
 4 Park Plaza, Suite 1700
 Irvine, California 92614
 949-721-6900
 949-721-6910
 E-mail: rooklidgew@howrey.com
 E-mail: goodingm@howrey.com
 E-mail: cordreyg@howrey.com

Mark D. Wegener (admitted *pro hac vice*)
 HOWREY LLP
 1299 Pennsylvania Ave, NW
 Washington, DC 20004
 Telephone: 202-783-0800
 Facsimile: 202-383-6610
 E-mail: wegenerm@howrey.com

Attorneys for Plaintiff The Procter & Gamble Company

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE PROCTER & GAMBLE COMPANY,)	Case No.: 3:08-cv-00930 PJH
)	
Plaintiff,)	
v.)	THE PROCTER & GAMBLE
)	COMPANY'S REPLY TO KRAFT'S
KRAFT FOODS GLOBAL, INC.,)	COUNTERCLAIM
)	
Defendant.)	

Plaintiff The Procter & Gamble Company ("P&G") hereby replies to the Counterclaim of Defendant Kraft Foods Holdings, Inc. ("Kraft"):

COUNTERCLAIM

P&G replies as follows:

1. P&G admits that Kraft, by asserting its Counterclaim, purports not to concede and expressly disputes the propriety of this action going forward in light of the pending reexamination of the '418 patent. Except as expressly admitted, P&G denies the remaining allegations in paragraph 1.

2. P&G admits that Kraft counterclaims against P&G pursuant to the patent laws of the United States in Title 35 of the United States Code, with a specific remedy sought based upon the laws authorizing actions for declaratory judgment in the courts of the United States in 28 U.S.C. §§ 2201 and 2202 and Rule 13 of the Federal Rules of Civil Procedure. Except as expressly admitted, P&G denies the remaining allegations in paragraph 2.

THE PARTIES

3. P&G admits the allegations of paragraph 3 of the Counterclaim.

4. P&G admits the allegations of paragraph 4 of the Counterclaim.

JURISDICTION AND VENUE

5. P&G admits the allegations of paragraph 5 of the Counterclaim.

6. P&G admits the allegations of paragraph 6 of the Counterclaim.

7. P&G admits the allegations of paragraph 7 of the Counterclaim.

COUNTERCLAIM – DECLARATORY JUDGMENT

8. P&G admits the allegations of paragraph 8 of the Counterclaim.

FIRST COUNT

DECLARATION OF NON-INFRINGEMENT OF THE '419 PATENT

9. P&G admits that Kraft restates and incorporates by reference each of the allegations of paragraphs 1 through 8 of its Counterclaim. Except as expressly admitted, P&G denies the remaining allegations in paragraph 9.

10. P&G admits the allegations of paragraph 10 of the Counterclaim.

11. P&G admits the allegations of paragraph 11 of the Counterclaim.

12. P&G denies the allegations of paragraph 12 of the Counterclaim.

SECOND COUNT

DECLARATION OF INVALIDITY OF THE '419 PATENT

13. P&G admits that Kraft restates and incorporates by reference each of the allegation of paragraphs 1 through 12 of its Counterclaim. Except as expressly admitted, P&G denies the remaining allegations in paragraph 13.

1 14. P&G admits the allegations of paragraph 14 of the Counterclaim.

2 15. P&G denies the allegations of paragraph 15 of the Counterclaim

3 **JURY DEMAND**

4 16. P&G admits that Kraft purports to demand a jury trial on all issues and claims so
5 triable.

6 **PRAYER FOR RELIEF**

7 P&G prays that Kraft take nothing by its Counterclaim, that judgment be entered for P&G and
8 against Kraft on Kraft's Counterclaim, that this be found to be an exceptional case, and that P&G be
9 awarded attorney fees, costs and interest and such other and further relief as the Court may deem just
10 and proper.

11
12
13 The electronic filer hereby attests that the individual whose name appears below has signed this
14 document. See General Order 45, Section X.

15 DATED: June 6, 2008

HOWREY LLP

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18 BY: /s/ William C. Rooklidge

19 William C. Rooklidge
20 Attorneys for THE PROCTER & GAMBLE
COMPANY